

110TH CONGRESS  
2D SESSION

# H. R. 6452

To amend the Trade Act of 1974 to identify foreign country trade practices that negatively affect the environment and to take actions to address such practices.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 10, 2008

Mr. BLUMENAUER (for himself and Mr. DOGGETT) introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Trade Act of 1974 to identify foreign country trade practices that negatively affect the environment and to take actions to address such practices.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Trade and Environ-  
5 ment Enforcement (‘Green 301’) Act”.

1 **SEC. 2. IDENTIFICATION OF FOREIGN COUNTRY TRADE**  
2 **PRACTICES THAT NEGATIVELY AFFECT THE**  
3 **ENVIRONMENT.**

4 (a) IN GENERAL.—Chapter 1 of title III of the Trade  
5 Act of 1974 (19 U.S.C. 2411 et seq.) is amended by add-  
6 ing at the end the following:

7 **“SEC. 311. IDENTIFICATION OF FOREIGN COUNTRY TRADE**  
8 **PRACTICES THAT NEGATIVELY AFFECT THE**  
9 **ENVIRONMENT.**

10 “(a) IDENTIFICATION.—

11 “(1) IN GENERAL.—The Trade Representative  
12 shall identify those foreign country trade practices  
13 that cause negative environmental impacts on the  
14 protection of human, animal, or plant life or health,  
15 or the conservation of exhaustible natural resources  
16 in the United States, the foreign country, a third  
17 country, or internationally.

18 “(2) FACTORS.—In identifying foreign country  
19 trade practices under paragraph (1), the Trade Rep-  
20 resentative shall take into account all relevant fac-  
21 tors, including—

22 “(A) the strength of the connection be-  
23 tween trade and the negative environmental im-  
24 pact;

25 “(B) the significance of the negative envi-  
26 ronmental impact on the protection of human,

1 animal or plant life or health, or the conserva-  
2 tion of exhaustible natural resources; and

3 “(C) the costs and benefits of mitigating  
4 the negative environmental impact through the  
5 remedies described in this section.

6 “(3) CONSULTATION.—In identifying foreign  
7 country trade practices under paragraph (1), the  
8 Trade Representative shall provide the opportunity  
9 for input by and consultation with interested per-  
10 sons, including private or nongovernmental organiza-  
11 tions working towards environmental protection or  
12 conservation, domestic industrial users of any goods  
13 that may be affected by this section, and appropriate  
14 Federal departments and agencies.

15 “(b) REPORT.—

16 “(1) IN GENERAL.—Not later than 270 days  
17 after the date of submission of a report under sec-  
18 tion 181(b) of this Act, the Trade Representative  
19 shall submit to the Committee on Ways and Means  
20 of the House of Representatives and the Committee  
21 on Finance of the Senate and publish in the Federal  
22 Register a report on the foreign country trade prac-  
23 tices identified under subsection (a).

1           “(2) MATTERS TO BE INCLUDED.—The Trade  
2       Representative may include in the report, if appro-  
3       priate—

4           “(A) a description of other foreign country  
5       trade practices that may in the future warrant  
6       inclusion in the report as foreign country trade  
7       practices that negatively affect the environment;  
8       and

9           “(B) a statement regarding other foreign  
10      country trade practices that negatively affect  
11      the environment that have not been identified  
12      because they are subject to other provisions of  
13      United States trade law, existing bilateral trade  
14      agreements, or trade negotiations, and progress  
15      is being made toward the mitigation, reduction,  
16      or elimination of the negative environmental im-  
17      pacts of such foreign country trade practices.

18      “(c) PETITIONS.—

19           “(1) IN GENERAL.—Any interested person, as  
20      described in subsection (a)(3), may file a petition  
21      with the Trade Representative requesting that action  
22      be taken under subsection (a) and setting forth the  
23      allegations in support of the request.

24           “(2) REVIEW.—The Trade Representative shall  
25      review the allegations in any petition filed under

1 paragraph (1) and, not later than 45 days after the  
2 date on which the Trade Representative receives the  
3 petition, shall determine whether to initiate consulta-  
4 tions under subsection (d) with respect to the allega-  
5 tions in the petition.

6 “(3) DETERMINATION NOT TO INITIATE CON-  
7 SULTATIONS.—If the Trade Representative deter-  
8 mines not to initiate consultations under subsection  
9 (d) with respect to a petition filed under paragraph  
10 (1), the Trade Representative shall inform the peti-  
11 tioner of the reasons therefor and shall publish no-  
12 tice of the determination, together with a summary  
13 of such reasons, in the Federal Register.

14 “(d) CONSULTATIONS.—Not later than 3 weeks after  
15 the date on which the report required under subsection  
16 (b) is submitted to the congressional committees specified  
17 under subsection (b) or upon acceptance of a petition de-  
18 scribed in subsection (c), the Trade Representative shall  
19 request consultations with the government of each foreign  
20 country identified under subsection (a) or in such a peti-  
21 tion regarding the practices with respect to which the for-  
22 eign country was so identified.

23 “(e) AGREEMENTS.—

24 “(1) IN GENERAL.—As part of the consulta-  
25 tions with a foreign country under subsection (d),

1 the Trade Representative shall seek to negotiate an  
2 agreement between the United States and the for-  
3 eign country that provides for the mitigation, reduc-  
4 tion, or elimination of the negative environmental  
5 impacts that are the result of the trade practices  
6 with respect to which the foreign country was identi-  
7 fied under subsection (a) or (c).

8 “(2) FAILURE TO REACH AGREEMENT.—If the  
9 United States and a foreign country fail to reach an  
10 agreement described in paragraph (1), the Trade  
11 Representative—

12 “(A) shall take all appropriate and feasible  
13 action authorized under section 301(c) of this  
14 Act, subject to the specific direction, if any, of  
15 the President regarding any such action; and

16 “(B) shall take all other appropriate and  
17 feasible action within the power of the Presi-  
18 dent that the President may direct the Trade  
19 Representative to take under this subsection, to  
20 obtain the mitigation, reduction, or elimination  
21 of negative environmental impacts that are the  
22 result of the trade practices with respect to  
23 which the foreign country was identified under  
24 subsection (a).

1       “(f) FOREIGN COUNTRY TRADE PRACTICE DE-  
2 FINED.—In this section, the term ‘foreign country trade  
3 practice’ or ‘trade practice’—

4               “(1) means any act, policy, or practice of a for-  
5 eign country relating to trade as well as the sus-  
6 tained or recurring lack of any act, policy, or prac-  
7 tice of a foreign country relating to trade; but

8               “(2) does not include any such act, policy, or  
9 practice that reflects a reasonable exercise of pros-  
10 ecutorial discretion or a reasonable decision regard-  
11 ing the allocation of environmental enforcement re-  
12 sources.”.

13       (b) CLERICAL AMENDMENT.—The table of contents  
14 for the Trade Act of 1974 is amended by inserting after  
15 the item relating to section 310 the following:

“Sec. 311. Identification of countries that engage in trade practices that nega-  
tively affect the environment.”.

